

## REMARKS

Upon entry of the foregoing Amendment, claims 1-3, 6, 8-10, 12-14, 17, 19-21, 23-25, 28, 30-32, and 35-38 are pending in the application. Claims 1-3, 6, 8-10, 12-14, 17, 19-21, 23-25, 28, 30-32, and 35-36 are currently amended. Claims 37-38 have been added. No claims are currently canceled. In view of the foregoing Amendment and following Remarks, allowance of all the pending claims is requested.

Unless otherwise indicated, amendments to the claims have been made solely for formal purposes, purposes of consistency, and/or clarification and have not been made to distinguish any references or overcome any rejection.

Applicant has amended and/or cancelled various claims solely to expedite prosecution of this application. Applicant expressly reserves the right to prosecute the subject matter of the claims prior to the foregoing Amendment and/or cancelled claims, or any other subject matter supported by the Specification, in one or more continuation applications.

### ***Rejection Under 35 U.S.C. 103***

The Examiner has rejected claims 1-6, 8, 12-17, 23-28, and 34-36 under 35 U.S.C. § 103 as allegedly being unpatentable over U.S. Patent Publication 2002/0042277 by Smith ("Smith") in view of U.S. Patent No. 6,377,810 to Geiger *et al.* ("Geiger") and further in view of U.S. Patent No. 5,905,461 to Neher ("Neher"). *January 2009 Office Action* at 2. The Examiner has rejected claims 9-10, 20-21, and 31-32 as allegedly unpatentable over Smith in view of Geiger and further in view of U.S. Patent No. 6,716,101 to Meadows *et al.* ("Meadows"). *January 2009 Office Action* at 6.

Applicant traverses these rejections for at least the reason that the references relied upon by the Examiner ("Applied References") do not teach or suggest every feature of the claimed invention prior to the foregoing Amendment. Nonetheless, solely to expedite prosecution of this application, Applicant has amended the claims to clarify various features of the invention. The references relied upon by the Examiner, either alone or in combination with one another, do not teach or suggest all the features of the pending claims as amended.

**1. The Applied References do not teach or suggest all the features of independent claims 1, 12, and 23 as amended.**

In particular, the Applied References do not teach or suggest at least the feature of monitoring "criteria for alerting the client when the first mobile device is within a specified distance of a second mobile device" as recited in claim 1 as amended, for example. (*Emphasis added*). Claims 12 and 23 have been amended to recite similar features. In the January 2009 Office Action, the Examiner acknowledges that "Smith fails to specifically disclose the criteria comprising a determination of a location of a first mobile device within a specified distance of a second mobile device." *January 2009 Office Action* at 3. However, the Examiner alleges that "[i]t would have been obvious to one having ordinary skill in the art at the time of the invention to include sending an alert when mobile clients are nearby each other if the job of the employees is to meet together since it is tracking employees." *January 2009 Office Action* at 3.

Thus, despite acknowledging that at least this claim feature is missing from the Applied References, the Examiner improperly alleges without providing an articulated rationale that the claims are obvious based on a hypothetical scenario "if the job of the employees is to meet together since it is tracking employees." With regard to obviousness, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007) (citing *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006)). By relying on the Examiner's own hypothetical scenario and Applicant's claim to allege that the claimed criteria is obvious, the Examiner has failed to articulate a rationale that the Applied References may be combined to render obvious the claims.

Instead, the Examiner uses Applicant's claimed criteria for determining when a first mobile device is within a specified distance of a second mobile device as a roadmap for piecing together separate features of the Applied References and the claimed criteria (missing from the Applied References) to arrive at the claimed invention, thereby engaging in improper hindsight.

For at least the foregoing reasons, the Examiner has failed the burden of establishing that the Applied References teach or suggest at least this feature. As such, the rejection of at least claims 1, 12, and 23 as amended are improper and must be withdrawn. Claims 2-3, 6, 8-

10, 13-14, 17, 19-21, 24-25, 28, and 30-32 depend from or add features to one of claims 1, 12, and 23. Accordingly, for at least the reasons set forth above with regard to claims 1, 12, and 23, the rejections of at least these dependent claims are likewise improper and must be withdrawn.

**2. The Applied References do not teach or suggest all the features of independent claim 35 as amended.**

The Applied Reference do not teach or suggest at least the feature of “receiving, by the one or more network devices of the web service, location data associated with and transmitted by the mobile device, wherein the location data comprises a tolerance indicating a level of accuracy of the location data” as recited in claim 35 as amended. (*Emphasis added*). The accuracy of the location data may vary. As such, providing the client with the tolerance indicating a level of accuracy may provide important information to the client. For example, the client may use the tolerance to identify when location data is to be trusted.

For at least the reason that the Applied References are apparently silent with regard to at least this feature, the rejection of at least independent claim 35 as amended is improper and must be withdrawn. Claim 36 depends from and adds features to claim 35. As such, for at least the reasons discussed above regarding claim 35, the rejection of this dependent claim is likewise improper and must be withdrawn.

**3. The Applied References do not teach or suggest all the features of newly added claims 37-38.**

Applicant has newly added claims 37-38, which depend from and add features to claim 35. As such, for at least the reasons discussed above regarding the rejection of claim 35 as amended, claims 37-38 should be allowed.

In addition to the reasons discussed above, claim 38 should be allowed for at least the reason that the Applied References do not teach or suggest at least the feature of:

wherein the location data is generated by the mobile device using one of a plurality of location techniques, wherein each of the plurality of location techniques generate the location data using a different technique, and wherein the location data comprises a

technique identifier that identifies the one of the plurality of  
location techniques that were used to generate the location data

as recited in claim 38. (*Emphasis added*). The Applied References are apparently silent with regard to at least this feature. As such, for at least the foregoing reasons, claim 38 should be allowed.

### **CONCLUSION**

Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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Respectfully submitted,

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